

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

THE ESTATE OF ANTONIO SERRACANTE, et al.,
Plaintiff(s),

v.

CIVIL NO. 09-1326 (DRD)

ESSO STANDARD OIL (PUERTO RICO),
Defendant(s).

ORDER OF REFERRAL

The Court hereby **INSTRUCTS** the Clerk of the Court to assign this case to the U.S. Magistrate Judge McGiverin through the Computerized Case Assignment System for a Report and Recommendation on the instant case, regarding the following motions: *Motion To Dismiss*, and related motions, Docket No. 49. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); Local Rule 72(a). The parties are reminded that any objections to the Magistrate's Report and Recommendation must be filed with the Clerk of Court "within fourteen (14) days after being served with a copy thereof," **which the Court has reduced to five (5) business days** in the instant case. Fed.R.Civ.P. 72(b)(2); Fed.R.Civ.P. 6(c)(1)(B), and Local Rule 72(d); *see also* 28 U.S.C. § 636(b)(1). Fed.R.Civ.P. 72(b) "adds a provision **not in the statute**, by stating that 'a party may respond to another party's objections within [14 days] of being served with a copy thereof.'" . . . "The legislative history of Section 636(b)(1)(C) reveals that Congress intended that these matters be governed by local rules." (Emphasis ours). 12 Wright, Miller & Marcus, *Federal Practice and Procedure*: Civil 2d § 3070.1. Moreover, Fed.R.Civ.P. 6(c)(1)(B) allows the Court to change the time set by the Federal Rules of Civil Procedure, with the exceptions provided by Fed.R.Civ.P. 6(b)(2).

The parties are forewarned that no extensions of time shall be authorized to the parties to file objections to the R&R and that failure to submit the objections within the deadline provided shall be deemed by the Court as objections being waived. Furthermore, the Court hereby set aside the three (3) days term provided by Local Rule 5(e). See, U.S. v. Diaz-Villafane, 874 F.2d 43, 46 (1st Cir. 1989)(quoting *Braxton v. Bi-State Dev. Agency*, 728 F.2d 1105, 1107 (8th Cir. 1984) "[i]t is for the district court to determine what departures from its rules may be overlooked"). No replies to the objections to an R&R will be allowed without leave of Court, as provided by Local Rule 7(c). Furthermore, the provisions of Local Rule 7(c) are subject to the time constraints of the Court, such as the reportable date of the motion subject of the R&R, and the provisions of Local Rule 1(f).

The motion(s) referred herein is/are reportable in **March 2011**. Hence, the Court prefers that the R&R be filed on or before **January 15, 2011**.

IT IS SO ORDERED.

In San Juan, Puerto Rico this 5th day of October, 2010.

**S/DANIEL R. DOMINGUEZ
DANIEL R. DOMINGUEZ
U.S. DISTRICT JUDGE**